**THE HON'BLE MR JUSTICE V.V.S.RAO**

**WRIT PETITION No.9106 of 2006**

**Dated:27.04.2006**

Between:

Smt.Parvathamma.

**..... PETITIONER**

AND

The District Collector, Anantapur and others.

**.....RESPONDENTS**

**THE HON'BLE MR JUSTICE V.V.S.RAO**

**WRIT PETITION No.9106 of 2006**

**ORDER:**

The petitioner claims to be the owner of agricultural lands in Survey Nos.463 (Ac.1.68 cents), 464 (Acs.2.87 cents), 750 (Acs.4.84 cents), 753 (Acs.9.40), 466 (Ac.1.26 cents), 751 (Ac.0.61 cents) situated at Yeguvanala Asara Madi Bailu, by reason of a gift deed executed to an extent of 1/11$^{th}$ share which comes to Ac.1.88 cents. It is her case that the fourth respondent herein without any intimation to her gave the land in Survey No.750 for construction of a Hospital. But, having regard to the purpose for which the land was given, the petitioner did not raise any objection. She alleges that the fourth respondent is trying to sell away the land of the petitioner in Survey No.753 to the fifth respondent. Therefore, she approached the third respondent requesting not to entertain any document submitted by the fourth respondent for registration, in vain. Therefore, the present writ petition is filed seeking a writ of mandamus directing the third respondent not to register any document in respect of the property executed by the fourth respondent in favour of the fifth respondent.

The learned Counsel for the petitioner reiterate the contentions raised in the affidavit accompanying the writ petition. However, she is not able to show any provision in the Registration Act, 1908 (for short 'the Act'), which empowers the registering authority like the third respondent to refuse registration. Indeed, in **Property Association of Baptist Churches v. Sub-Registrar, Jangaon,** I have considered this aspect of the matter with reference to Sections 71, 72 and 77 of the Act and Rule 58 of the Andhra Pradesh Rules under Registration Act. It was held therein as under.

> Part-XI of the Registration Act, 1908 deals with the duties and powers of the registering officers. It shall be the duty of the registering officer to admit the document without unnecessary delay and proceed with the registration. If, for any reason, the registering officer refused to register the document, he has to record reasons and furnish a copy of the reasons, on a request made by the person presenting the document for registration. In case, the registration is refused, the person aggrieved may file an appeal before the Registrar, who may reverse or alter the orders passed by the Sub-Registrar. In the event of the appellate authority refusing the appeal, the party aggrieved thereby may approach the civil Court as per Section 77 of the Act 1908, within thirty (30) days after rejection of the appeal. If the document is registered by the registering authority, the Act, 1908 does not give any remedy to the person aggrieved. Herein a reference be made to Rule 58 of the Rules, which reads as under:
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> "Rule 58:- It forms no part of registering officer's duty to enquire into the validity of a document brought to him for registration or to attend to any written or verbal protest against the registration of a document based on the ground that the executing party had no right to execute the document; but he bound to consider objections raised on any of the grounds stated below:
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> a. that the parties appearing or about to appear before him are not the persons they profess to be;
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> b. that the document is forged;
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> c. that the person appearing as a representative, assign, or agent, has no right to appear in that capacity;

d. that the executing party is not really dead as alleged by the party applying for registration; or

e. that the executing party is a minor or an idiot or a lunatic".

A reading of the above provisions would show that the power of the registering officer is limited to enquire into the validity of the document brought to him for registration or to enquire into any written or verbal protest against the registration of a document based on the ground that the executing party has no right to execute the document. The limited power of the registering officer to enquire into objections that the executing party had no right to execute document get extinguished the moment the document is registered. No such power inheres in the registering officer or the District Registrar to cancel the sale deed, unless another document for cancellation is presented with proper stamp duty and registration charges. A party aggrieved by a registered document on conveyance has to file civil suit seeking appropriate declaration under Section 34 of the Specific Relief Act, read with Article 59 of the Schedule under the Limitation Act 1963 (Act 36 of 1963). The writ petition is not a proper remedy.

In view of the above, the Writ Petition, as framed, is not maintainable. If any mandamus is issued as prayed, it would amount to a mandamus contrary to law or enabling the public authority to act contrary to law. If so advised, the petitioner may approach the third respondent and raise objections for registration. As and when such objections are raised, the third respondent shall consider and pass appropriate orders.

The Writ Petition with the above observations is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

27.04.2006

vs